



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: National Business Systems, Inc.--Reconsideration

File: B-224820.2

Date:

November 17, 1986

DIGEST

Direct economic interest of third-low offeror is not affected by award where second-low offeror would be awarded contract if protest of acceptance of low offer were successful. Protester therefore is not an interested party under Bid Protest Regulations to pursue the matter.

DECISION

National Business Systems, Inc. (NBS), requests that we reconsider our dismissal of its protest of a delivery order issued by the Department of the Navy to Data Card Corporation (Data Card) under request for quotations (RFQ) No. N00604-86-Q-4046(S) for a number of items on Data Card's General Services Administration (GSA) Federal Supply Schedule contract.

NBS had contested the propriety of Data Card's quotation. We dismissed the protest on the basis that NBS was not an interested party to protest the award under our Bid Protest Regulations, 4 C.F.R. §§ 21.0(a), 21.1(a) (1986), because NBS was the third-low offeror and would not be in line for award even if its protest were successful.

NBS contests our dismissal of its protest on the basis that the second-low offer was also unacceptable. In this respect, NBS contends that the second-low quotation, from Apex Distributing Co. (Apex), offered items at less than the manufacturer's suggested retail prices, less discount, incorporated into the manufacturer's GSA Schedule contract. NBS asserts that Apex, in submitting an offer in response to the Navy's RFQ, could not properly quote a price lower than the manufacturer's GSA Schedule price.

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This procurement was conducted by obtaining competitive oral quotations, consistent with the simplified acquisition procedures for small purchases contained in the Federal Acquisition Regulation, 48 C.F.R. § 13.106 (1985). There is nothing in these procedures which precludes a party from quoting a price below that of either its own or its manufacturer's GSA Schedule price. Consequently, we find no merit in NBS's challenge of Apex's second-low quote.

Since NBS's direct economic interest thus would not be affected even if Data Card's quote were found unacceptable, the firm is not an interested party within the meaning of our Regulations. The dismissal of the protest is affirmed.

for Seymour Gros
Harry R. Van Cleve
General Counsel